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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,386	08/21/2001	Bharath Vasudevan	016295.0673	8095

7590 12/18/2003

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EXAMINER

KJNDRED, ALFORD W

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 12/18/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application N .

09/934,386

Applicant(s)

VASUDEVAN ET AL. 

Examiner

Alford W. Kindred

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is responsive to communication: Application, filed on 08/21/2001.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 9 recites the limitation "the write signal" in the claim language. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-40 are rejected under 35 U.S.C. 102(e) as being anticipated by US# 6,438,594 B1.

As per claims 1-2, Bowman-Amuah teaches "a source subsystem" (see col. 49, lines 34-59 and col. 52, lines 56-59) "a target subsystem, wherein the source node and the target node are communicatively" (see col. 53, lines 15-26) "a repository subsystem" (see col. 56, lines 26-35).

As per claim 3, Bowman-Amuah teaches "issue a write statement . . . write statement may be replicated by the target subsystem . . ." (see col. 54, lines 3-40).

As per claims 4 and 8, Bowman-Amuah teaches "the repository subsystem is operable to queue the write statement . . ." (see col. 54, lines 3-45 and col. 73, lines 15-35).

As per claims 5-6, these claims are rejected on grounds corresponding to the arguments given above for rejected claims 1-3 and are similarly rejected including the following:

--Bowman-Amuah teaches "storage device operable to store data and meta-data and changes thereto in response to the write statement" (see col. 5, lines 14-20 and col. 6, lines 63-67).

As per claims 7 and 21-22, Bowman-Amuah teaches "the data transfer mode is an asynchronous mode" (see col. 53, lines 50-58).

As per claim 9, Bowman-Amuah teaches "wherein the source node is operable to send the write signal to the repository . . . write statement form the repository subsystem" (see col. 54, lines 3-40).

As per claim 10, this claim is rejected on ground corresponding to the arguments given above for rejected claim 9 and is similarly rejected including the following:

--Bowman-Amuah teaches "wherein the target subsystem is able to receive the write statement from the repository subsystem when the target subsystem is able to replicate the write statement" (see col. 53, lines 33-48).

As per claims 11-12, Bowman Amuah teaches "send the write statement to the repository subsystem if the source node receives a choke signal from the target subsystem" (see col. 205, lines 47-55).

As per claims 13-16 and 18, these claims are rejected on grounds corresponding to the arguments given above for rejected claims 11-12 and are similarly rejected including the following:

-- Bowman-Amuah teaches "a target queen is associated with a choke threshold . . . not above the choke threshold" (see col. 205, lines 40-55).

As per claim 17, Bowman-Amuah teaches "a source queue" (see col. 73, lines 14-34)

As per claim 19, Bowman-Amuah teaches "a plurality of repository subsystems" (see col. 57, lines 23-47).

As per claim 20, Bowman-Amuah teaches "wherein each repository queues mirror each other" (col. 73, lines 15-40).

As per claims 23-25, these claims are rejected on grounds corresponding to the arguments given above for rejected claims 1-4 and are similarly rejected.

As per claims 26-28, these claims are rejected on grounds corresponding to the arguments given above for rejected claims 1-5 and 20 are similarly rejected including the following:

As per claims 29 and 31, Bowman-Amuah teaches "the target is unable to handle the write statement if the target node cannot handle the write statement" (see col. 54, lines 3-46).

As per claim 30, Bowman-Amuah teaches "a target queue associated with a choke threshold and operable to queue to the write statement . . ." (see col. 205, lines 47-55).

As per claims 32-35, these claims are rejected on grounds corresponding to the arguments given above for rejected claims 4, 12-14 and 22 and are similarly rejected.

As per claims 36 and 38, these claims are rejected on grounds corresponding to the arguments given above for rejected claim 27 and is similarly rejected.

As per claims 39-40, these claims are rejected on grounds corresponding to the arguments given above for rejected claims 10 and 22 and are similarly rejected including the following:

--Bowman-Amuah teaches "wherein a period of time equal to latency value elapses between sending the write statement . . ." (see col. 53, lines 43-59 and col. 54, lines 3-46).

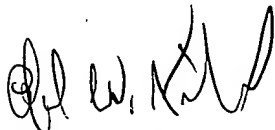
***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US# 6,446,089 B1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alford W. Kindred whose telephone number is 703-305-3802. The examiner can normally be reached on Mon-Fri 9:00 am- 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Klm Vu can be reached on (703) 305-4393. The fax phone number for the organization where this application or proceeding is assigned is (703)746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9000.

A handwritten signature in black ink, appearing to read 'Alford W. Kindred', with a stylized, cursive script.

Alford W. Kindred  
Patent Examiner  
Tech Ctr. 2100